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The Clerk
Stathern Parish Council
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LE14 4EB

Our ref: 01285378.01
Your ref:

17 September 2020

SENT BY E-MAIL ONLY

Dear Sirs,

STATHERN NEIGHBOURHOOD PLAN 2020-2036, PRE SUBMISSION CONSULTATION

Thank you for the opportunity to provide comments on the draft Stathern Neighbourhood Plan.

We note the neighbourhood plan has been drafted by the Parish Council, pursuant to powers contained in the Localism Act 2011. The intention is that the neighbourhood plan direct development across the Parish over the lifetime of the Melton Local Plan, which was adopted in October 2018 and has a plan period of 2011 to 2036.

These comments are submitted by Marrons Planning on behalf of our client, Mr Matthew Atton. Our client owns land within the Stathern Neighbourhood Plan area, including land at the edge of Stathern, which the Local Plan allocates as a reserve housing site (reference 'STAT3').

Our client would like the land at Stathern to contribute to local housing supply at the earliest opportunity. To this end, an outline planning application (reference 18/01533/OUT) to develop the full reserve site allocation of 45 dwellings was submitted to the Borough Council on 03.10.19. The application was withdrawn following discussions with planning officers.

Officers recommended that a second application (reference 19/01193/OUT) for a sustainable development of nine dwellings on a smaller part of the reserve site allocation be approved. However, planning committee members took a different view and the application was refused on 24.01.20. The decision to refuse planning permission is the subject of an appeal to Secretary of State (Planning Inspectorate reference APP/Y2430/W/20/3256174). The appeal has not yet been determined.

Neighbourhood Planning

The National Planning Policy Framework (NPPF) describes (at paragraph 29) how neighbourhood planning gives communities the power to develop a shared vision for their area, to shape, direct

and help to deliver sustainable development. However, the same paragraph makes clear that neighbourhood plans should not promote less development than is set out in the strategic policies for the area, or undermine those strategic policies.

In accordance with paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended), neighbourhood plans must meet certain 'basic conditions' and other legal requirements before they can come into force. Compliance with the basic conditions is tested at independent examination before the neighbourhood plan may proceed to referendum. The basic conditions, as they are relevant to neighbourhood plans, are:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan);
- the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development;
- the making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations; and
- prescribed conditions are met in relation to the order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).

The draft neighbourhood plan does assess how the basic conditions have been met and a basic conditions statement will be provided as part of the submission version instead. It is considered that this assessment would be better undertaken now given that the neighbourhood plan, as drafted, would seem to fail to meet the basic conditions test.

Comments on the draft Neighbourhood Plan

Our client's main concern whether the draft neighbourhood plan is in general conformity with the strategic housing policies of the Melton Local Plan and, therefore, the extent to which it would contribute to the achievement of sustainable development.

This is because the draft plan fails to recognise the reserve site allocation at Stathern and seeks to prevent sustainable small-scale development on sites on the edge of the settlement boundary. Both are important elements of the Local Plan strategy to meet housing need both at Stathern and in the wider Borough and to deliver sustainable development.

Housing and the Built Environment

The relevant Borough-wide policies are SS1, SS2, SS3 and C1, which are contained in chapters 4 and 5 of the Local Plan. There can be no doubt that the housing policies are strategic policies with which the neighbourhood plan should be in general conformity. Paragraph 1.8.5 of the adopted Melton Local Plan makes clear that, "***For the purpose of testing conformity of Neighbourhood Plans with the Local Plan, all policies included in the Local Plan up to and including Chapter 8 are regarded as strategic policies. Whilst the remaining policies will be relevant to determining planning applications, they are not viewed as strategic policies for the purpose of testing Local Plan conformity.***"

In summary, Policy SS2 commits the Council to providing at least 6,125 new dwellings over the 2011-2036 plan period and details the spatial strategy. The Melton Urban Area will accommodate approximately 65% of the Borough's housing need, whilst the Service Centres (including Stathern), together with the identified Rural Hubs, will accommodate approximately 35% of the residual requirement (equivalent to 1,822 homes).

Policy SS2 states that development will be accommodated at the Service Centres and Rural Hubs on a proportionate basis, and delivered by planning positively for the development of allocated sites within and adjoining these settlements. Policy C1(A) allocates two sites for development at Stathern: 'STAT1': Point Farm, Main Street (65 dwellings); and 'STAT2': Land adjacent Lavesley House, 14 City Road (10 dwellings).

Due to concerns about the potential for under-delivery at the time of preparation, the Local Plan includes a set of reserve sites to provide flexibility within the supply of available and suitable land. This includes our client's land at Blacksmith End (site reference STAT3). The plan also provides for small-scale residential development where it would represent sustainable development under Policy SS1 (reflecting the presumption in favour of sustainable development); and SS3 (which encourages new residential development on the edge of existing settlements in rural areas such as Stathern, subject to criteria including local need being met).

Draft Neighbourhood Plan – Policy H1

Draft neighbourhood plan policy H1 proposes a 'Limit to Development' at Stathern. In this regard, the neighbourhood plan purports merely to update limits to development "previously used" by the Borough Council. However, the draft neighbourhood plan does not appear to consider whether the previous limits to development would achieve the strategy of the adopted Local Plan. The proposed limit needs to be explained and justified.

We consider that the limit to development proposed is not consistent with the Local Plan development strategy as it only takes into account the site allocations contained in part A of Local Plan Policy C1 (STAT1 and STAT2). In so doing, it ignores the reserve site allocation in part B of the same policy, namely 'STAT3' - 'Land west of Blacksmiths End, Stathern' with a capacity of 45 dwellings.

The neighbourhood plan should not ignore the allocated reserve site in this way. Paragraph 5.4.7 of the Local Plan clearly sets out the rationale for reserve sites generally, stating that,

"Whilst the Local Plan as a whole includes a methodology for monitoring and trigger points for review... it is considered good practice to build in flexibility within the plan itself to allow for a more robust approach and 'insulate' the need for review arising from relatively minor shortcomings on delivery, e.g. if an allocated site should become unavailable, or problems of a detailed nature are identified at application stage resulting in delay or non-delivery, or if sites cannot deliver as many new homes as envisaged. The Plan therefore includes 'reserve sites' in Melton Mowbray and Service Centre settlements where there are further suitable, available, and deliverable / developable sites to offer this flexibility and additional resilience..."

Local Plan policy C1(B) sets out the circumstances in which proposals for the development on the plan's reserve sites would be permitted. These include where it would help to meet the housing requirement and development needs of the settlement and would secure the sustainability of the settlement, in the event that this cannot be achieved through the site allocations or other permissions granted.

The effect of draft Policy H1 is that land beyond the Limits to Development would fall into the open countryside in planning terms, where development is tightly controlled by national and other strategic policies. This would create a situation where, if the allocated sites within Melton were not developed or to the extent envisaged, proposals to bring forward the Stathern reserve site would be contrary to the development plan, despite the principle of development being supported by the Local Plan's strategic policies.

It is clear that this approach would negatively influence the Local Plan mechanism crafted to safeguard housing delivery at Stathern and elsewhere in the plan area. The reserve sites have a combined capacity of 562 dwellings across Melton Borough. If this approach were replicated elsewhere, it would undermine the effectiveness of the Local Plan and possibly contribute towards an early review, to identify additional site allocations.

The neighbourhood plan's treatment of the reserve site also needs to be viewed in the context of the District Council's 5 year housing land supply position, which is dependent on a limited number of large-scale sites and has been falling year on year. If the Neighbourhood Plan does not plan positively for additional housing in line with the Local Plan, then it could inadvertently open the door to speculative applications on less appropriate sites.

In disregarding the reserve site allocation, the draft neighbourhood plan assumes that the site allocations at Stathern will come forward, which is not certain. The planning application for STAT1 (Point Farm, Main Street for 65 dwellings) is still being considered by the local authority and has not yet been granted planning permission, and there is of course no guarantee that if planning permission is granted, the allocated sites would provide housing envisaged during the plan period. The neighbourhood plan proposes to remove the Local Plan's ability to deal with that eventuality which could cause housing need at Stathern to go unmet, to the detriment of the local community.

The 'Limits to Development' in policy H1 should be removed from the Neighbourhood Plan, or re-drawn to properly reflect all of the housing allocations in the Melton Local Plan, including the important role that the STAT3 reserve site allocation plays in safeguarding housing delivery within the Borough.

Draft Neighbourhood Plan Policy H2 (Windfall Sites)

Draft Neighbourhood Plan Policy H2 relates to the development of non-allocated 'windfall' sites over the course of the plan period. The neighbourhood plan (Page 21) defines these as *"...small infill or redevelopment sites that come forward for development unexpectedly and have not been specifically identified for new housing in a planning document"*. The plan goes on to describe how windfall sites *"...often involve redundant or underutilised buildings, including former farm buildings, or a restricted gap in the continuity of existing buildings and will usually comprise capacity for only a single dwelling, although Local Plan thresholds on page 30, para 4.2.17 of the Local Plan will apply"*.

The neighbourhood plan description of windfall sites paints a skewed picture of windfall sites compared with the NPPF definition, which simply states that they are *"Sites not specifically identified in the development plan"*. There is no requirement to secure the redevelopment of redundant or underutilised buildings, and no limit on the number of dwellings that windfall sites can deliver. Paragraph 4.2.17 of the Local Plan, as referenced in the neighbourhood plan, does not impose a limit, and simply explains that as part of the spatial strategy for the Borough, schemes of up to 10 dwellings may be appropriate within or on the edge of Service Centres.

Draft neighbourhood plan policy H2 goes on to support only “*small residential development proposals*” subject to a series of criteria, one of which is that the development “*a) is within the Limits to Development of the village of Stathern*”. This is not consistent with Local Plan Policy SS2 (Development Strategy) which encourages small-scale residential development at Service Centres, either where:

- it would represent sustainable development under Policy SS1 (Sustainable Development), which commits the Council to a positive approach that reflect the presumption in favour of sustainable development when considering development proposals); or
- where it would enhance the sustainability of the community in accordance with Policy SS3 (Sustainable Communities), which encourages sustainable residential development on sites **within or on the edge of existing settlements** in the rural area (including Stathern), subject to criteria including local need.

This means that small-scale sustainable schemes on the edge of Stathern would find themselves contrary to the development plan and is not consistent with strategic Local Plan policies SS1, SS2 and SS3.

Were this practice to be followed in other settlements it would seriously prejudice the ability of windfall development to contribute sufficiently to the delivery of homes. The Local Plan makes clear that allocated sites are expected to deliver only 5,325 dwellings of the 6,125 dwelling minimum requirement and as a result, so smaller, non-allocated ‘windfall’ sites are a key component of the Melton Housing Trajectory. The neighbourhood plan’s approach could prejudice the Local Plan’s ability to deliver its housing requirement and, in the context of a falling five-year housing land supply position, leave the Borough Council vulnerable to speculative applications on less appropriate sites.

As set out in paragraph 4.2.13 of the Local Plan, “*National planning policy advises that an allowance for windfall development should only be included in the five year housing land supply and assumed to make a contribution toward meeting the Borough’s housing requirement where there is strong evidence that such site will continue to come forward*”. The paragraph concludes by stating “*Past delivery and the ‘relaxing’ of restrictions on small site development in the smaller villages brought about by Policy SS3 provide that*”. This serves to emphasise the importance of allowing the policies written to enable appropriate windfall development to operate as intended.

Policy H2 should be re-written to be consistent with Local Plan Policy SS2, to provide clear support for small-scale sustainable development from windfall sites in accordance with Local Plan Policy SS1, and development that would enhance the sustainability of the community in accordance with Local Plan Policy SS3. This includes land on the edge of Stathern.

Evidence Base

Housing Allocations

The NPPF seeks to boost significantly the supply of housing and to this end, the Local Plan housing figure is a minimum requirement and not an upper limit. Indeed, the PPG encourages neighbourhood planning bodies to plan to meet any housing apportionment to their area and to exceed it where possible. The PPG further states that a sustainable choice of sites to accommodate housing will provide flexibility if circumstances change, and allows plans to remain up to date over a longer time scale (Paragraph 103 reference ID 41-103-20190509).

As a Service Centre, Stathern is one of the most sustainable settlements in Melton Borough, and the Neighbourhood Plan fails to take the opportunity to plan positively for residential development. Instead, it chooses to rely on the housing allocations in the Local Plan to meet the minimum housing requirement and to restrict development on sustainable windfall sites on the edge of the village.

In taking this approach, the neighbourhood plan does not embrace national policy, and does not properly reflect public views obtained at the consultation stage, where there was clear support expressed for the development of land at Blacksmith End for residential use.

Around 70 people attended the Neighbourhood Plan "Drop In" meeting in the War Memorial Institute on 20/09/19, as which attendees were invited to indicate their preferred locations for new housing. The Parish Council's summary of the event records strong views that future residential development at Blacksmith End would be acceptable.

The Blacksmith End land performed well in comparison with the STAT1 and STAT2 Local Plan allocations, with 30 out of 48 of the green dots (63%) placed to indicate residents would be happy to see the reserve site allocation (STAT3) developed, compared with just 13 (27%) for STAT1. Of the 73 red dots placed to identify where local residents would not wish to see development, 26 dots (36%) were placed on STAT1 and just 8 (11%) on reserve site STAT3.

The support for the Blacksmith End site is reflected in the August edition of the Stathern Star newsletter (enclosed), which includes an update on the neighbourhood plan consultation, seemingly produced by the chair of the neighbourhood plan steering group. Specifically, the final bullet point on page 6, under the banner "*For Housing you said...*" records "*A preference for housing in the NE of the village not in the centre of the village, on Toft's Hill or the bottom of Mill Hill*".

The Borough Council's housing needs survey identifies further community support for the development of land at Blacksmith End. The January 2020 '*Detailed Investigation into Rural Housing Need in Stathern, Leicestershire*' report identified the STAT3 reserve site as a preferred location for residential development, alongside the Local Plan allocated STAT1 site amongst those respondents who were in favour of additional development at Stathern (see page 20 and Figure 8, page 21). The report records a response rate of 39% to the survey, which it describes as a "good level of response".

The neighbourhood does not explain why it ignores the STAT3 Local Plan reserve site allocation at Blacksmith End, and the strong local support for development in this part of the village. In seeking to prevent sustainable development on the edge of Stathern, the neighbourhood plan goes against clearly expressed local views.

Those views are also reflected in objections to more recent planning applications for the larger housing developments, which have generated a greater number of individual objections from village residents than the Blacksmiths Lane site:

1. 20/00309/FUL Red Lion Site. 7 dwellings. 205 objections
2. 19/01302/FUL STAT1 Site. 74 dwellings. 52 objections
3. 19/00741/FUL Tofts Hill Site. 9 dwellings. 84 objections
4. 19/01193/OUT Blacksmiths Lane Site. 9 dwellings. 38 objections

The neighbourhood plan should be amended to include an additional housing allocation at Blacksmith End, Stathern. Allocating additional land at Blacksmith End would increase choice within the housing market and deliver homes in a location preferred by local residents. It would help to support community facilities and contribute to the Government objective of significantly boosting the supply of homes.

Draft Neighbourhood Plan Policy ENV3 (Sites and features of Natural Environmental Significance)

Draft policy ENV3 states that development proposals that affect sites of natural environment significance will be expected to protect the identified habitats and/or species, according to their status, and to give appropriate weight to the contribution they make to the wider ecological network. The policy references Figure 6 of the neighbourhood plan, which identifies “*sites of natural environmental significance*”, and which identifies our client’s land at Blacksmith End (reference 111) as having “Local Wildlife Value”.

However, the neighbourhood plan does not provide any justification for this designation, which is not supported by evidence.

The submitted Biodiversity Survey Report for application reference 18/01533/OUT concludes that the land at Blacksmith End is intensively managed and so contains very limited biodiversity. The survey found no evidence of rare or unusual plant species or plant communities and no evidence of protected species being present. The Biodiversity Survey Report can be found on the Borough Council’s webpage for application reference 18/01533/OUT, and is appended to this consultation response.

Figure 6 should be amended to remove the reference to land at Blacksmith End as being of Local Wildlife Value.

Draft Neighbourhood Plan Policy ENV5 (Biodiversity and Habitat Connectivity)

Draft policy ENV5 refers to Figure 7, which shows land forming part of the allocated reserve site at Blacksmith End shaded in green. The key to the figure simply refers to this area as “Habitat areas, all types”.

Whilst neither the policy nor the supporting text explain what is meant by this term, Figure 7 appears to suggest that the whole of the site has biodiversity value. The neighbourhood plan does not provide any justification for this designation, which is not supported by evidence.

The submitted Biodiversity Survey Report for application reference 18/01533/OUT demonstrates that due to it being intensively managed, the site is of very limited biodiversity value and that the value present is limited to the hedgerows at its edge.

Figure 7 should be updated to remove the green shading from land parcels 110 and 111 at Blacksmith End.

Draft Neighbourhood Plan Policy ENV8 (Ridge and Furrow)

Draft Policy ENV8 refers to Figure 11.3, which identifies ‘Areas of ridge and furrow in Stathern in 2020’ and includes land parcels 111 and 111.1, owned by our client. The policy describes ridge and furrow as a non-designated heritage asset. It goes on to state that development proposals that would detrimentally affect or remove areas of the ridge and furrow earthworks will not be supported,

unless it can be demonstrated that the benefits arising from the proposed development achieves “substantial public benefits that would outweigh the harm or loss of the earthwork concerned”.

In the first instance, the policy test as drafted is not consistent with the requirements of the National Planning Policy Framework (NPPF) in relation to non-designated heritage assets. Specifically, Framework Paragraph 197 states, “The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgment will be required having regard to the scale of any harm or loss and the significance of the heritage asset”. The NPPF requires a balanced assessment to be made on a case by case basis, having regard to the scale of harm and significance of the asset. There is no requirement for the public benefits of a proposal to be “substantial” for the loss of non-designated heritage assets to be justified.

Regarding significance, the potential development constraints affecting our client’s land were assessed in preparing the Melton Local Plan and no ‘in principle’ issues found to prevent the Blacksmith End land being allocated as a reserve housing site. The Local Plan Inspector found the reserve site allocation to be sound as part of the examination process.

The Archaeological Desk Based report submitted for application reference 18/01533/OUT confirms the presence of ridge and furrow earthworks on only part of the site, rather than the whole area, as Figure 11.3 appears to suggest. The Assessment notes that the ridge and furrow has some associative and historic value in relation to the historic core of Stathern, but that the earthworks are severely degraded. This leads the report to conclude, “Due to the degraded nature of the earthworks on the site and their lack of complexity, the impact of its loss on the heritage significance of the settlement is deemed negligible / nil”.

The applicant discussed the presence of ridge and furrow with the planning archaeologist at Leicestershire County Council (LCC) who raised no objection to the application, subject to a written scheme of investigation and recording. Copies of the ‘Archaeological Desk Based Assessment’ report and LCC Archaeology’s response can be found on the Borough Council’s webpage for application reference 18/01533/OUT, and are appended to this consultation response.

Figure 11.3 should be updated to make clear that the areas of ridge and furrow are indicative and not definitive. The ridge and furrow at Blacksmith End does not represent an in principle constraint to development. Draft policy ENV8 should be amended to be consistent with the NPPF, which requires a balanced judgment having regard to the scale of any harm or loss and the significance of the non-designated heritage asset.

Conclusion

Our client is concerned that the current drafting of the neighbourhood plan does not meet the basic conditions requirement for neighbourhood plans. The plan fails to recognise the status of land at Blacksmith End as a reserve housing site in the Melton Local Plan and seeks to prevent small-scale sustainable development on windfall sites at the edge of the village. The plan is therefore not consistent with Local Plan policies SS1, SS2 and SS3. These are strategic policies that under the basic conditions the plan should be in general conformity with.

The draft plan does not plan positively for residential development in Stathern, but seeks to prevent land at Blacksmith End coming forward for development. In so doing it ignores the preference for housing in this part of the village, as expressed at the consultation events and in response to the Borough Council’s local housing needs survey.

Insofar as they relate to our Client's land at Blacksmith End, the biodiversity and heritage constraints identified in policies ENV3, ENV5 and ENV8 are not supported by evidence. The Melton Local Plan evidence base did not identify any in principle issues to development and further the assessment of planning applications 18/01533/OUT and 19/01193/OUT did not identify any technical constraints to development.

We trust the above comments will be taken into account in the next stages of the neighbourhood plan preparation. We would welcome the opportunity to comment on subsequent versions of the draft plan and therefore ask that we are kept informed of progress.

Yours faithfully

A handwritten signature in black ink, appearing to read 'M Atton', with a horizontal line drawn through it.

For Marrons Planning
on behalf of Mr Matthew Atton

Encs

Biodiversity Report
Stathern Star (August edition)
Archaeology Desk Based Assessment (Application 18/01533/OUT)
Leicestershire County Council Archaeology Response (Application 18/01533/OUT)

Cc Melton Borough Council (Planning Policy)